



1 of 3 DOCUMENTS

DEERING'S CALIFORNIA CODES ANNOTATED  
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7, AND 8, AND URGENCY LEGISLATION THROUGH CH 141 OF THE 2010 REGULAR SESSION

CODE OF CIVIL PROCEDURE  
Part 4. Miscellaneous Provisions  
Title 4. Civil Discovery Act  
Chapter 7. Sanctions

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Code Civ Proc § 2023.030 (2010)*

**§ 2023.030. Sanctions which may be imposed for misuse of discovery process**

To the extent authorized by the chapter governing any particular discovery method or any other provision of this title, the court, after notice to any affected party, person, or attorney, and after opportunity for hearing, may impose the following sanctions against anyone engaging in conduct that is a misuse of the discovery process:

(a) The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct. The court may also impose this sanction on one unsuccessfully asserting that another has engaged in the misuse of the discovery process, or on any attorney who advised that assertion, or on both. If a monetary sanction is authorized by any provision of this title, the court shall impose that sanction unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(b) The court may impose an issue sanction ordering that designated facts shall be taken as established in the action in accordance with the claim of the party adversely affected by the misuse of the discovery process. The court may also impose an issue sanction by an order prohibiting any party engaging in the misuse of the discovery process from supporting or opposing designated claims or defenses.

(c) The court may impose an evidence sanction by an order prohibiting any party engaging in the misuse of the discovery process from introducing designated matters in evidence.

(d) The court may impose a terminating sanction by one of the following orders:

(1) An order striking out the pleadings or parts of the pleadings of any party engaging in the misuse of the

discovery process.

(2) An order staying further proceedings by that party until an order for discovery is obeyed.

(3) An order dismissing the action, or any part of the action, of that party.

(4) An order rendering a judgment by default against that party.

(e) The court may impose a contempt sanction by an order treating the misuse of the discovery process as a contempt of court.

**HISTORY:**

Added Stats 2004 ch 182 § 23 (AB 3081), operative July 1, 2005.

**NOTES:**

**Historical Derivation:**

Former CCP § 2023(b), added Stats 1986 ch 1334 § 2, amended Stats 1987 ch 86 § 6.

**Law Revision Commission Comments:**

**2004**

The introductory clause of Section 2023.030 continues the introductory clause of former Section 2023(b) without substantive change.

Subdivision (a) continues former Section 2023(b)(1) without change, except to replace "article" with "title."

Subdivision (b) continues former Section 2023(b)(2) without change.

Subdivision (c) continues former Section 2023(b)(3) without change.

Subdivision (d) continues former Section 2023(b)(4) without change.

Subdivision (e) continues former Section 2023(b)(5) without change.

**Collateral References:**

*Cal. Points & Authorities (Matthew Bender(R)) ch 24A "Attorneys At Law: Malpractice" § 24A.03.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 47 "Contempt" § 47.63.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 80 "Discovery: Scope Regulation And Timing" § 80.80.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 80 "Discovery: Scope Regulation And Timing" § 80.100.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 82 "Discovery: Privileges And Other Discovery Limitations" §*

82.10.

*Cal. Points & Authorities (Matthew Bender(R)) ch 82 "Discovery: Privileges And Other Discovery Limitations" § 82.20.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 82 "Discovery: Privileges And Other Discovery Limitations" § 82.30.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 82 "Discovery: Privileges And Other Discovery Limitations" § 82.31.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.10.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.30.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.60.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.70.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.80.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.100.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.150.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.160.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.170.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 84 "Discovery: Interrogatories" § 84.10.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 84 "Discovery: Interrogatories" § 84.20.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 84 "Discovery: Interrogatories" § 84.30.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 84 "Discovery: Interrogatories" § 84.70.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 85 "Discovery: Production Or Inspection Of Tangible Evidence" § 85.10.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 85 "Discovery: Production Or Inspection Of Tangible Evidence" § 85.20.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 85 "Discovery: Production Or Inspection Of Tangible Evidence" § 85.30.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 85 "Discovery: Production Or Inspection Of Tangible Evidence" § 85.50.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 85 "Discovery: Production Or Inspection Of Tangible Evidence" § 85.60.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 85 "Discovery: Production Or Inspection Of Tangible Evidence" § 85.80.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 85 "Discovery: Production Or Inspection Of Tangible Evidence" § 85.90.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 86 "Discovery: Requests For Admissions" § 86.10.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 86 "Discovery: Requests For Admissions" § 86.14.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 86 "Discovery: Requests For Admissions" § 86.20.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 86 "Discovery: Requests For Admissions" § 86.30.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 86 "Discovery: Requests For Admissions" § 86.50.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 86 "Discovery: Requests For Admissions" § 86.52.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 87 "Discovery: Physical And Mental Examinations" § 87.10.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 87 "Discovery: Physical And Mental Examinations" § 87.12.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 87 "Discovery: Physical And Mental Examinations" § 87.13.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 87 "Discovery: Physical And Mental Examinations" § 87.30.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 87 "Discovery: Physical And Mental Examinations" § 87.50.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 88 "Discovery: Exchange Of Expert Witness Information" § 88.10.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 147 "Malicious Prosecution And Abuse Of Process" § 147.24.*

*Cal. Points & Authorities (Matthew Bender(R)) ch 180 "Pretrial Proceedings" § 180.31.*

*Cal. Fam. Law Practice & Procedure (Matthew Bender(R)), § 110.13.*

*Matthew Bender (R) Practice Guide: Cal. Trial and Post Trial Civil Procedure §§ 1.23, 23.07[2].*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 2.13.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 3.10.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 5.08.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 7.04-7.05.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 7.07.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 11.14-11.15.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 13.02-13.06.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 13.08.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 13.12.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 13.14-13.15.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 16.02.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 16.06.*

*Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 16.16.*

### **Hierarchy Notes:**

Pt. 4, Tit. 4 Note

Pt. 4, Tit. 4, Ch. 7 Note

NOTES OF DECISIONS 1. Illustrative Cases 2. Notice and Opportunity for Hearing Requirements 3. Applicability

### **Editor's Notes**

For notes of decisions derived from cases decided under former CCP § 2023, see *CCP § 2023.010*.

#### **1. Illustrative Cases**

In a product liability suit relating to the absence of a three-point harness in a minivan, discovery sanctions against the manufacturer were proper under *CCP §§ 2023.010, 2023.020, 2023.030*, because a pattern of abuse led to loss of evidence on failure to warn. It was not excessive to instruct that the manufacturer failed to warn of a dangerous condition, even though the owner's manual including a warning. *Karlsson v. Ford Motor Co. (2006, Cal App 2d Dist) 140 Cal App 4th 1202, 45 Cal Rptr 3d 265, 2006 Cal App LEXIS 976*, rehearing denied (2006) 2006 Cal. App. LEXIS 1226, review denied (2006, Cal) 2006 Cal LEXIS 11662.

Trial court was not divested of authority to hear and grant a motion to compel responses under *CCP § 2030.290(b)* by the service of interrogatories that asserted inability to respond to some questions, which was not a proper response under *CCP, § 2030.210(a)*; hence, failure to complete the interrogatories was a proper basis for a monetary sanction against an attorney pursuant to *CCP §§ 2030.290(c), 2023.030* for violation of the order compelling responses. *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants (2007, 2d Dist) 2007 Cal App LEXIS 318*.

Trial court did not err in imposing a monetary sanction on a former employee for his unsuccessful opposition to his former employer's motion to compel further responses to interrogatories because even though there had been no previous order compelling the employee to respond, nothing in *CCP § 2030.300(d)* suggests that a party is entitled to one free refusal to serve further responses before a monetary sanction can be imposed. Furthermore, the employer established without contradiction that the employee refused to meet and confer regarding further responses to the interrogatories, which was a separate offense entitling the moving party to monetary sanctions notwithstanding the outcome of the particular discovery motion, and the amount of fees awarded pursuant to *CCP § 2023.030(a)* was not an abuse of discretion, as the trial court cut the employer's request by two-thirds. *Parker v. Wolters Kluwer United States, Inc. (2007, Cal App 2d Dist) 149 Cal App 4th 285, 57 Cal Rptr 3d 18, 2007 Cal App LEXIS 490*.

Ample evidence of noncompliance supported the imposition of terminating sanctions in an action for unpaid attorney fees; the clients failed to respond to interrogatories and production demands, they failed to pay monetary sanctions, and their attorney declared that she was unable to locate them. *Steven M. Garber & Associates v. Eskandarian (2007, Cal App 2d Dist) 150 Cal App 4th 813, 59 Cal Rptr 3d 1, 2007 Cal App LEXIS 705*, modified

(2007, Cal App 2d Dist) 2007 Cal App LEXIS 800.

In a defamation case, the trial court had the jurisdiction to strike defendant's answer and enter default against defendant as a terminating sanction. It was clear that defendant had no intention of answering discovery, filing proper and timely papers, or complying with court orders, and no lesser remedy would have changed defendant's conduct. *Del Junco v. Hufnagel* (2007, Cal App 2d Dist) 150 Cal App 4th 789, 60 Cal Rptr 3d 22, 2007 Cal App LEXIS 702, modified, rehearing denied (2007, Cal App 2d Dist) 2007 Cal App LEXIS 883, review denied (2007, Cal) 2007 Cal LEXIS 9050.

It was error to strike the testimony of other witnesses as a sanction for a parent's refusal to testify in a dependency hearing. This was not a case of discovery abuse and therefore CCP § 2023.030(c) was inapplicable. *In re Mark A.* (2007, 4th Dist) 156 Cal App 4th 1124, 2007 Cal App LEXIS 1848.

Trial court did not abuse its discretion in imposing terminating sanctions under CCP § 2030.290(c) or CCP § 2023.030(d)(1) in a contract case after finding that the sanctioned party was being evasive within the meaning of CCP § 2023.010 when it tendered discovery responses that lacked meaningful information, repeatedly ignored meet and confer letters, continued to parrot the same answers after two orders compelling it to give further responses, and propounded no discovery of its own until faced with a motion for terminating sanctions. *Liberty Mutual Fire Ins. Co. v. LCL Administrators, Inc.* (2008, 3d Dist) 2008 Cal App LEXIS 859.

In a case where evidence showed that a client intentionally destroyed his file while a legal malpractice action was pending and only part of the file had been copied, there was a prima facie showing of prejudice that shifted the burden of proof to the client under Ev C § 500; terminating sanction was proper under CCP § 2023.010(d) and CCP § 2023.030(a)-(d) because he did not meet his burden. *Williams v. Russ* (2008, 2d Dist) 2008 Cal App LEXIS 1702.

In an action where trial court prohibited railroad company employer from compelling employee to attend a medical examination or conducting a disciplinary hearing to terminate employee's employment for refusing to provide it with medical evidence justifying his continued absence from work, trial court did not abuse discretion in imposing monetary sanctions against employer where the sanctions served not to punish but rather encourage voluntary compliance with the discovery procedures; employee's counsel had objected to employer's ex parte demands for medical information and had made every effort to secure employer's agreement to postpone the disciplinary hearing until trial court had heard his motion for injunctive relief, but instead employer had given equivocal responses while failing to agree to the requested postponement, forcing counsel to seek a temporary restraining order. *Pratt v. Union Pacific Railroad Co.* (2008, 3d Dist) 168 Cal App 4th 165, 2008 Cal App LEXIS 2027.

Trial court abused its discretion by not imposing a terminating sanction pursuant to CCP §§ 2025.450, subd. (d), 2023.030, for a manufacturer's persistent and flagrant discovery misconduct under CCP § 2023.010, subds. (d)-(g), when more discovery abuses came to light during the trial of a consumer warranty and fraud case. *Doppes v. Bentley Motors, Inc.* (2009, 4th Dist) 2009 Cal App LEXIS 904.

Trial court had the discretion, under CCP § 2023.030, subd. (c), not to impose an evidence sanction prohibiting a party from introducing promissory notes in evidence, despite the party's failure to timely comply with a discovery request to produce any documents supporting a sale of real property. *Lee v. Lee* (2009, 5th Dist) 2009 Cal App LEXIS 1255.

Monetary sanction for frivolous objections to special interrogatories was appropriate under CCP § 2023.030(a) because a vagueness objection to a term defined by statute lacked substantial justification; moreover, questions that required reference to an answer to an earlier interrogatory were not incomplete under CCP § 2030.060(d) or compound, conjunctive, or disjunctive under § 2030.060(f) because the interrogatories did not arguably exceed the limit of 35 as provided in CCP § 2030.030(b). *Clement v. Alegre* (2009, 1st Dist) 2009 Cal App LEXIS 1568.

Because a wife sought discovery in connection with a motion to set aside child support orders that was barred by

her own delay, awarding sanctions against her under *CCP* §§ 1987.2(a), 2023.010-2023.030, or 2023.030(a), was not an abuse of discretion. *In re Marriage of Zimmerman* (2010, 2d Dist) 2010 Cal App LEXIS 484.

## **2. Notice and Opportunity for Hearing Requirements**

Although a trial court did not err when it ordered a former employee to appear for a third deposition because he had waived any objection to the location of the deposition by failing to serve a written objection on his former employer at least three calendar days prior to the date of the deposition as required by *CCP* § 2025.410(a), it did err in its ex parte imposition of monetary sanctions for the employee's disruption and refusal to proceed with his second deposition because, pursuant to *CCP* § 2023.030, discovery sanctions could not be awarded ex parte. *Parker v. Wolters Kluwer United States, Inc.* (2007, Cal App 2d Dist) 149 Cal App 4th 285, 57 Cal Rptr 3d 18, 2007 Cal App LEXIS 490.

## **3. Applicability**

Although a doctor who challenged a denial of staff privileges failed to produce information requested under *B & P C* § 809.2(d), the hearing officer was not empowered under *CCP* § 2023.030(d) or any other authority to terminate the peer review hearing before the doctor had an opportunity to exercise the rights set forth in *B & P C* § 809.3(a). *Mileikowsky v. West Hills Hospital Medical Center* (2007, 2d Dist) 2007 Cal App LEXIS 1411.

Court must look to *CCP* § 2034.300(b), and not the general provisions providing for sanctions for conduct that is a misuse of the discovery process found in *CCP* § 2023.030. *Muller v. Fresno Community Hospital & Medical Center* (2009, 2d Dist) 2009 Cal App LEXIS 439.